

# **UNITED STATES DISTRICT COURT**

## **EASTERN DISTRICT OF WISCONSIN**

---

LINDA FAYE HUDSON and  
ASTLEY BARRINGTON SHIRLEY,

Plaintiffs,

Case No. 05-C-680

v.

MICHAEL CHERTOFF, as Secretary of  
the United States Department of Homeland  
Security; EDUARDO AGUIRRE, JR., as  
Director of the Citizenship and Immigration  
Service; and MICHAEL COMFORT, as  
Director of the Chicago District of the  
United States Citizenship and Immigration  
Service,

Defendants.

---

### **OPINION AND ORDER**

Plaintiffs Linda Faye Hudson and Astley Barrington Shirley filed this action for mandamus and declaratory judgment. They are seeking an order requiring the Defendants to adjudicate Shirley's administrative complaint seeking classification of Shirley as an immigrant relative and adjustment of his status to lawful permanent resident. Shirley is a citizen of Jamaica. Plaintiff Hudson is a citizen of the United States. Shortly after their marriage eleven years ago, the two separated and Hudson has had two children by another man. They have not, however, filed for divorce.

On July 6, 2005, while this action was pending in this court, the United States Citizen and Immigration Service issued a decision on Shirley's administrative complaint. The decision denied relief to Shirley.

The Defendants now take the position that this court lacks jurisdiction over the Plaintiffs' claims because they are now moot. The Plaintiffs believe that the court should act as a court of equity and hear the merits of Shirley's underlying petition for adjustment of status and find that Plaintiffs' marriage was bonafide. The court declines to take this action because ruling in favor of the Plaintiffs would mean overturning the administrative ruling. This is not the proper forum for an appeal of that decision.

Therefore, the court ORDERS that the "Defendants' Motion to Dismiss" (filed October 31, 2005) IS GRANTED.

IT IS FURTHER ORDERED that this action is dismissed.

IT IS FURTHER ORDERED that the Clerk of Court shall enter a final judgment as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

Plaintiffs Linda Faye Hudson and Astley Barrington Shirley brought this action against Defendants Michael Chertoff, as Secretary of the United States Department of Homeland Security; Eduardo Aguirre, Jr., as Director of the citizenship and Immigration Service; and Michael Comfort, as Director of the Chicago District of the United States Citizenship and Immigration Service, before the court, the Honorable Thomas J. Curran, District Judge, presiding, and the court having concluded that it lacks jurisdiction over this matter,

IT IS ORDERED AND ADJUDGED

that this action is dismissed with prejudice.

Done and Ordered in Chambers at the United States Courthouse,  
Milwaukee, Wisconsin, this 13th day of January, 2006.

s/ Thomas J. Curran  
Thomas J. Curran  
United States District Judge